

REMARKS

In the Office Action mailed November 18, 2005, the Examiner rejected claims 1, 2, 4-6, 8, 9, and 20 under 35 U.S.C. §102(e) as being anticipated by Chung, U.S. Patent No. 6,821,839. Claims 3, 7, and 10 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. Claims 11 and 13-19 were allowed.

Claims Rejection 102(e) and Objections

Claims 1, 2, 4-6, 8, 9, and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by Chung, U.S. Patent No. 6,821,839.

The Applicant's are herein canceling claims 2, 3, and 20 without prejudice.

The applicants wish to thank the Examiner for pointing out the allowance of claims 3, 7, and 10 if rewritten.

Claim 1 is amended herein to include the features of claims 2 and 3. Claim 2 was rejected, however, claim 3 was objected to because it depended from rejected independent claim 1. More specifically, claim 1 is amended to include the feature that a second smoothing layer comprises a refractory metal. Because the Examiner has indicated that claim 3 would have been allowed if written in independent form, Applicants submit that claim 1 is now allowable as an independent form of now canceled claim 3. Since claims 4-10 depend from claim 1, it is believed that these are likewise allowable. In view of the amendment made to claim 1, the Examiner's rejection of claims 4-6, 8, and 9 is moot and therefore, will not be addressed. Claim 7 had been objected to but, as above, Applicants believe that the changes made to independent claim 1 make claim 7 allowable. Similarly, claim 10 had been objected to but, as above, Applicants believe that the changes made to independent claim 1 make claim 10 allowable.

Similarly, the Examiner has indicated that claim 10 would be allowed if written in independent form. Claim 10 is herein written in independent form and added as claim 21 to the current Application. Claim 21 includes the elements from the originally submitted claim 1 as well as the feature from the original dependent claim 10 that the capping layer comprises a

refractory nitride and the first electrode comprises a metal. Applicants submit that claim 21 is now allowable.

Applicants wish to thank the Examiner for allowing claims 11, and 13-19.

Applicants submit that the amendment does not add new material to the current Application. No amendment made is related to the statutory requirements of patentability unless expressly stated herein. No amendment made is for the purpose of narrowing the scope of any claims, unless Applicants argue herein that such amendment is made to distinguish over a particular reference or combination of references.

The Office Action contains numerous statements characterizing the claims, the specification, or the prior art. Regardless of whether such statements are addressed by Applicants, Applicants refuse to subscribe to any of these statements, unless expressly indicated by Applicants.

Applicants earnestly solicit allowance of all pending claims. Please contact Applicant's practitioner listed below if there are any issues.

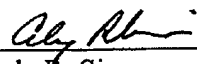
Respectfully submitted,

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